

EXHIBIT 1



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January 12, 2024

Mr. Mark Bohrer
Assistant Director
North Dakota Industrial Commission
Oil and Gas Division
600 East Boulevard
Bismarck, North Dakota 58505-0310

**RE: APPLICATION OF INCLINE
ENERGY PARTNERS FOR
FEBRUARY 2024 HEARINGS**

Dear Mr. Bohrer:

Please find enclosed herewith for filing an APPLICATION OF INCLINE ENERGY PARTNERS.

As you will note, pursuant to N.D. Admin. Code § 43-02-03-88.2, Incline requests that its witnesses be allowed to participate at the hearing by telephonic means.

Should you have any questions, please advise.

Sincerely,

A handwritten signature in blue ink, appearing to read "LB", with a stylized flourish extending from the bottom right.

LAWRENCE BENDER

LB/leo

Enclosure

cc: Mr. Todd Holweger – (w/enc.) *Via Email*
Mr Brett Hairston – (w/enc.) *Via Email*

BEFORE THE NORTH DAKOTA INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. _____

Application of Incline Energy Partners for an order suspending and, after hearing, revoking the permit issued to Phoenix Operating LLC to drill the Daniele 26-35-2 3H well (File No. 40447) with a surface location in the NE/4NW/4 of Section 26, T.160N., R.99W., Divide County, North Dakota, and for such other relief as appropriate.

APPLICATION OF INCLINE ENERGY PARTNERS

Incline Energy Partners (“Incline”), for its application to the North Dakota Industrial Commission (“Commission”), respectfully states as follows:

1.

That Incline is the owner of an interest in the oil and gas leasehold estate in portions of a spacing unit described as Sections 26 and 35, Township 160 North, Range 99 West and Section 2, Township 159 North, Range 99 West, Divide County, North Dakota (the “Subject Lands”).

2.

That the Subject Lands, by virtue of Order No. 32875 entered in Case No. 30265, dated October 4, 2023, have been established as a 1920-acre spacing unit for the Burg-Bakken Pool.

3.

That based upon knowledge and belief, on or about January 10, 2024, the Commission issued a permit to Phoenix Operating LLC (“Phoenix”) for the drilling of the Daniele 26-35-2 3H well (File No. 40447) with a surface location in the Northeast Quarter Northwest Quarter (NE/4NW/4) of

Section 26, Township 160 North, Range 99 West, Divide County, North Dakota, on a 1920-acre spacing unit for the Burg-Bakken Pool as provided for in Order No. 32875.

4.

That based upon knowledge and belief, Phoenix is the owner of a working interest in the Subject Lands.

5.

That Section 43-02-03-16 of the North Dakota Administrative Code provides that disputes over designation of an operator of a well may be addressed by the Commission. In doing so, the Commission may consider "factors" including those set forth in Section 43-02-03-16.2.

6.

That factors, other than those set forth in Section 43-02-03-16.2 the Commission may include but are not limited to, are the following:

1. **43-02-03-06. Waste prohibited.** All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, or other persons shall at all times conduct their operations in the drilling, equipping, operating, producing, plugging, and site reclamation of oil and gas wells in a manner that will prevent waste.
2. **43-02-03-16. Application for permit to drill and recomplete.** Before any person shall begin any well-site preparation for the drilling of any well other than surveying and staking, such person shall obtain approval from the director.

* * *

The director shall deny an application for a permit under this section if the proposal would cause, or tend to cause, waste or violate correlative rights. The director of oil and gas shall state in writing to the applicant the reason for the denial of the permit. The applicant may appeal the decision of the director to the commission.

7.

That Incline is of the opinion that allowing Phoenix to proceed with the drilling of the Daniele 26-35-2 3H well will, among other things, result in waste.

8.

That Incline therefore requests an order suspending and, after hearing, revoking the permit issued to Phoenix Operating LLC to drill the Daniele 26-35-2 3H well (File No. 40447) with a surface location in the NE/4NW/4 of Section 26, Township 160 North, Range 99 West, Divide County, North Dakota, and for such other relief as appropriate.

WHEREFORE, Incline requests the following:

- (a) That this matter be set for the regularly scheduled February 2024 hearings of the Commission;
- (b) That pursuant to Section 43-02-03-88.2 of the North Dakota Administrative Code, Incline's witnesses in this matter be allowed to participate by telephonic means; and
- (c) That the Commission issue its order granting the relief requested and such other and further relief as the Commission may deem appropriate.

DATED this 12 day of January, 2023.

FREDRIKSON & BYRON, P.A.

By 

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P. O. Box 1855
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STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Lawrence Bender, being first duly sworn on oath, deposes and says that he is the attorney for the applicant named herein, that he has read the foregoing application, knows the contents thereof, and that the same is true to the best of this affiant's knowledge, and belief.



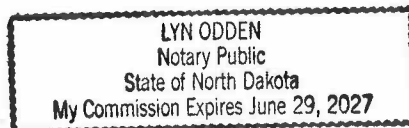
LAWRENCE BENDER

Subscribed and sworn to before me this 12 day of January, 2023.



Notary Public

My Commission Expires:



CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing document was on the 12 day of January, 2023 served by placing the same in the United States mail, postage prepaid, properly addressed to the following:

Phoenix Operating LLC
4643 S. Ulster St., Suite 1510
Denver, CO 80237



LAWRENCE BENDER

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